



PUBLIC NOTICE AND REQUEST FOR COMMENTS

REGARDING PROPOSED PUBLIC HIGHWAY-RAILROAD CROSSING CONSTRUCTION OR SAFETY IMPROVEMENTS

SECTION 1. MHTC CONSIDERATION OF PROPOSED PROJECT:

THE MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION (MHTC) IS NOW CONSIDERING A PROPOSAL TO APPROVE THE CONSTRUCTION OF A PUBLIC HIGHWAY- RAILROAD CROSSING, OR SAFETY IMPROVEMENTS TO AN EXISTING PUBLIC HIGHWAY- RAILROAD CROSSING, OR BOTH, AS FURTHER DESCRIBED IN THIS NOTICE. THE PURPOSE OF THIS NOTICE IS TO INFORM THE PUBLIC AND TO SOLICIT COMMENTS ON THE PROPOSED PROJECT. TERMS OF THE PROPOSED PROJECT MAY BE ALTERED BY AGREEMENT OF THE INTERESTED PARTIES, AND BY LAWFUL ORDERS OF MHTC, OR THE MISSOURI ADMINISTRATIVE HEARING COMMISSION.

SECTION 2. PROJECT LOCATION:

<input checked="" type="checkbox"/> Existing / <input type="checkbox"/> Proposed Crossing of:		Roadway Classification:	Rural Minor Collector; Rural Major Collector
Route No. N/A	Street Name County Road 165		<input type="checkbox"/> Within / <input checked="" type="checkbox"/> Near
City / Town / Village Ashburn	Pike County		Missouri
With: Railroad BNSF Railway Company	At RR Milepost 105.46	USDOT Inventory No.:078 172B	

SECTION 3. DESCRIPTION OF PROPOSED CONSTRUCTION OR SAFETY IMPROVEMENT PROJECT:

This section describes the proposed highway-railroad crossing construction or safety improvement project, which is now being considered by MHTC. If MHTC approves the project as proposed, then for each row in this section, Column 3.2 indicates which interested party shall be responsible to perform the work listed in Column 3.1; Column 3.3 also indicates which party or parties shall be responsible to pay the costs of performing the work listed in Column 3.1, and what portion of the costs for that work shall be apportioned to each party. Because this project has not yet received final approval, the project description and responsibilities are subject to change without notice as provided by law.

3.1. Scope of Work to Be Performed	3.2. Party Responsible to Perform Work	3.3. Party or Parties Responsible to Pay Costs
Install permanent barricades across the existing roadway approaches to the County Road 165 Grade Crossing consisting of Type A or Type D guard rails approximately 24 feet in length and Type IV object markers along the boundaries of the Railroad's right of way on both sides of the tracks. The Railroad shall also remove the existing crossing surface and passive grade crossing warning devices, as well as the roadway surfaces between the nearest rail and the guard rail on both sides of the railroad's tracks.	BNSF	MODOT/BNSF

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The Railroad shall reimburse MDC for one hundred percent (100 %) of the construction costs that is necessary to raise DuPont Access Road to the elevations and roadway surface width, including those costs incurred for labor, materials and administrative overhead connected with that work.

MDC

BNSF

SECTION 4. MoDOT SOLICITATION OF PUBLIC COMMENTS:

YOU ARE INVITED TO COMMENT IN SUPPORT OF, OR IN OPPOSITION TO, THE PROJECT DESCRIBED IN THIS NOTICE. MoDOT is soliciting these comments for the purpose of identifying, evaluating and/or planning the safety enhancement of potential accident sites, hazardous roadway conditions, or railway-highway crossings pursuant to sections 130, 144, and 152 of Title 23, United States Code, or for the purpose of developing any highway safety construction improvement project which may be implemented utilizing Federal-aid highway funds. Comments should be made in writing and filed with MoDOT Multimodal, at the address below, not later than thirty (30) days after the service date of the Public Notice. The comments are protected by 23 U.S.C. 409 from discovery and admission into evidence in damage suits relating to crossing accidents.

Date of Notice: April 26, 2013

IMPORTANT— PLEASE SUBMIT COMMENTS **BEFORE THE FOLLOWING DATE:**

May 26, 2013

Please address your comments for or against the proposed project to:

ATTN: Mr. Richard Allsbury

Multimodal Operations
Missouri Department of
Transportation
105 West Capitol, P.O. Box 270
Jefferson City, MO 65102-0270

Title: Rail Safety Specialist
(573) 751-7125

FAX (573) 526-4709

SECTION 5. MHTC MAY APPROVE PROJECT WITHOUT FURTHER PUBLIC NOTICE:

Except as otherwise provided by law, the Missouri Highways and Transportation Commission (MHTC) has exclusive power to approve, modify or deny the proposed construction or safety improvements described in this notice. Not less than thirty (30) days after the service date of this notice, MHTC may issue an Administrative Order approving the proposed project without further notice, if:

A. MoDOT Multimodal receives no written comments in opposition to the proposed project within the thirty (30)-day notice period; or

B. MoDOT Multimodal timely receives written comments in opposition, but there is competent and substantial evidence from which MHTC finds that the proposed project (either as described in the Public Notice, or as modified in response to any comments received) will promote public safety and will not adversely affect public necessity; and

C. No interested party is pursuing a pending Application with the AHC to review or determine this project.
See Section 6 of this notice.

SECTION 6. INTERESTED PARTIES MAY FILE AN APPLICATION WITH THE AHC:

Any interested party may file an application with the Administrative Hearing Commission (AHC), which is a separate body from the MHTC, for a formal hearing/review, of the proposed project. Upon the filing of such an Application, the AHC acquires exclusive jurisdiction to conduct hearings, make findings of fact and conclusions of law, and issue orders to determine the project, as provided by law.

Administrative Hearing Commission
Truman Bldg. Room 640, P.O. Box 1557
Jefferson City, MO 65102-1557
Telephone (573) 751-2422

SECTION 7. ADDITIONAL INFORMATION / COURT REVIEW:

Any interested party who is aggrieved by a final administrative order in this matter, whether issued by the MHTC or by the AHC, may seek judicial review of the order as provided by law, by filing a petition in Circuit Court, unless the party has waived judicial review.

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A COPY OF THIS NOTICE HAS BEEN SENT TO:
MoDOT Northeast District , Pike County, and BNSF Railroad.

If you have questions about the proposed project,
or desire further details, please contact the Missouri Department of Transportation at:

Railroad Administrator
Missouri Department of Transportation
105 West Capitol, P.O. Box 270
Jefferson City, MO 65102-0270
573-751-7476

Additional Comments: